



Sen. Heather A. Steans

Filed: 1/11/2021

10100HB0356sam001

LRB101 05159 KTG 74829 a

1 AMENDMENT TO HOUSE BILL 356

2 AMENDMENT NO. _____. Amend House Bill 356 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by
5 adding Section 5A-2.1 as follows:

6 (305 ILCS 5/5A-2.1 new)

7 Sec. 5A-2.1. Continuation of Section 5A-2 of this Code;
8 validation.

9 (a) The General Assembly finds and declares that:

10 (1) Public Act 101-650, which took effect on July 7,
11 2020, contained provisions that would have changed the
12 repeal date for Section 5A-2 of this Act from July 1, 2020
13 to December 31, 2022.

14 (2) The Statute on Statutes sets forth general rules on
15 the repeal of statutes and the construction of multiple
16 amendments, but Section 1 of that Act also states that

1 these rules will not be observed when the result would be
2 "inconsistent with the manifest intent of the General
3 Assembly or repugnant to the context of the statute".

4 (3) This amendatory Act of the 101st General Assembly
5 manifests the intention of the General Assembly to extend
6 the repeal date for Section 5A-2 of this Code and have
7 Section 5A-2 of this Code, as amended by Public Act
8 101-650, continue in effect until December 31, 2022.

9 (b) Any construction of this Code that results in the
10 repeal of Section 5A-2 of this Code on July 1, 2020 would be
11 inconsistent with the manifest intent of the General Assembly
12 and repugnant to the context of this Code.

13 (c) It is hereby declared to have been the intent of the
14 General Assembly that Section 5A-2 of this Code shall not be
15 subject to repeal on July 1, 2020.

16 (d) Section 5A-2 of this Code shall be deemed to have been
17 in continuous effect since July 8, 1992 (the effective date of
18 Public Act 87-861), and it shall continue to be in effect, as
19 amended by Public Act 101-650, until it is otherwise lawfully
20 amended or repealed. All previously enacted amendments to the
21 Section taking effect on or after July 8, 1992, are hereby
22 validated.

23 (e) In order to ensure the continuing effectiveness of
24 Section 5A-2 of this Code, that Section is set forth in full
25 and reenacted by this amendatory Act of the 101st General
26 Assembly. In this amendatory Act of the 101st General Assembly,

1 the base text of the reenacted Section is set forth as amended
2 by Public Act 101-650.

3 (f) All actions of the Illinois Department or any other
4 person or entity taken in reliance on or pursuant to Section
5 5A-2 of this Code are hereby validated.

6 Section 10. The Illinois Public Aid Code is amended by
7 reenacting Section 5A-2 as follows:

8 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

9 Sec. 5A-2. Assessment.

10 (a) (1) Subject to Sections 5A-3 and 5A-10, for State fiscal
11 years 2009 through 2018, or as long as continued under Section
12 5A-16, an annual assessment on inpatient services is imposed on
13 each hospital provider in an amount equal to \$218.38 multiplied
14 by the difference of the hospital's occupied bed days less the
15 hospital's Medicare bed days, provided, however, that the
16 amount of \$218.38 shall be increased by a uniform percentage to
17 generate an amount equal to 75% of the State share of the
18 payments authorized under Section 5A-12.5, with such increase
19 only taking effect upon the date that a State share for such
20 payments is required under federal law. For the period of April
21 through June 2015, the amount of \$218.38 used to calculate the
22 assessment under this paragraph shall, by emergency rule under
23 subsection (s) of Section 5-45 of the Illinois Administrative
24 Procedure Act, be increased by a uniform percentage to generate

1 \$20,250,000 in the aggregate for that period from all hospitals
2 subject to the annual assessment under this paragraph.

3 (2) In addition to any other assessments imposed under this
4 Article, effective July 1, 2016 and semi-annually thereafter
5 through June 2018, or as provided in Section 5A-16, in addition
6 to any federally required State share as authorized under
7 paragraph (1), the amount of \$218.38 shall be increased by a
8 uniform percentage to generate an amount equal to 75% of the
9 ACA Assessment Adjustment, as defined in subsection (b-6) of
10 this Section.

11 For State fiscal years 2009 through 2018, or as provided in
12 Section 5A-16, a hospital's occupied bed days and Medicare bed
13 days shall be determined using the most recent data available
14 from each hospital's 2005 Medicare cost report as contained in
15 the Healthcare Cost Report Information System file, for the
16 quarter ending on December 31, 2006, without regard to any
17 subsequent adjustments or changes to such data. If a hospital's
18 2005 Medicare cost report is not contained in the Healthcare
19 Cost Report Information System, then the Illinois Department
20 may obtain the hospital provider's occupied bed days and
21 Medicare bed days from any source available, including, but not
22 limited to, records maintained by the hospital provider, which
23 may be inspected at all times during business hours of the day
24 by the Illinois Department or its duly authorized agents and
25 employees.

26 (3) Subject to Sections 5A-3, 5A-10, and 5A-16, for State

1 fiscal years 2019 and 2020, an annual assessment on inpatient
2 services is imposed on each hospital provider in an amount
3 equal to \$197.19 multiplied by the difference of the hospital's
4 occupied bed days less the hospital's Medicare bed days. For
5 State fiscal years 2019 and 2020, a hospital's occupied bed
6 days and Medicare bed days shall be determined using the most
7 recent data available from each hospital's 2015 Medicare cost
8 report as contained in the Healthcare Cost Report Information
9 System file, for the quarter ending on March 31, 2017, without
10 regard to any subsequent adjustments or changes to such data.
11 If a hospital's 2015 Medicare cost report is not contained in
12 the Healthcare Cost Report Information System, then the
13 Illinois Department may obtain the hospital provider's
14 occupied bed days and Medicare bed days from any source
15 available, including, but not limited to, records maintained by
16 the hospital provider, which may be inspected at all times
17 during business hours of the day by the Illinois Department or
18 its duly authorized agents and employees. Notwithstanding any
19 other provision in this Article, for a hospital provider that
20 did not have a 2015 Medicare cost report, but paid an
21 assessment in State fiscal year 2018 on the basis of
22 hypothetical data, that assessment amount shall be used for
23 State fiscal years 2019 and 2020.

24 (4) Subject to Sections 5A-3 and 5A-10, for the period of
25 July 1, 2020 through December 31, 2020 and calendar years 2021
26 and 2022, an annual assessment on inpatient services is imposed

1 on each hospital provider in an amount equal to \$221.50
2 multiplied by the difference of the hospital's occupied bed
3 days less the hospital's Medicare bed days, provided however:
4 for the period of July 1, 2020 through December 31, 2020, (i)
5 the assessment shall be equal to 50% of the annual amount; and
6 (ii) the amount of \$221.50 shall be retroactively adjusted by a
7 uniform percentage to generate an amount equal to 50% of the
8 Assessment Adjustment, as defined in subsection (b-7). For the
9 period of July 1, 2020 through December 31, 2020 and calendar
10 years 2021 and 2022, a hospital's occupied bed days and
11 Medicare bed days shall be determined using the most recent
12 data available from each hospital's 2015 Medicare cost report
13 as contained in the Healthcare Cost Report Information System
14 file, for the quarter ending on March 31, 2017, without regard
15 to any subsequent adjustments or changes to such data. If a
16 hospital's 2015 Medicare cost report is not contained in the
17 Healthcare Cost Report Information System, then the Illinois
18 Department may obtain the hospital provider's occupied bed days
19 and Medicare bed days from any source available, including, but
20 not limited to, records maintained by the hospital provider,
21 which may be inspected at all times during business hours of
22 the day by the Illinois Department or its duly authorized
23 agents and employees. Should the change in the assessment
24 methodology for fiscal years 2021 through December 31, 2022 not
25 be approved on or before June 30, 2020, the assessment and
26 payments under this Article in effect for fiscal year 2020

1 shall remain in place until the new assessment is approved. If
2 the assessment methodology for July 1, 2020 through December
3 31, 2022, is approved on or after July 1, 2020, it shall be
4 retroactive to July 1, 2020, subject to federal approval and
5 provided that the payments authorized under Section 5A-12.7
6 have the same effective date as the new assessment methodology.
7 In giving retroactive effect to the assessment approved after
8 June 30, 2020, credit toward the new assessment shall be given
9 for any payments of the previous assessment for periods after
10 June 30, 2020. Notwithstanding any other provision of this
11 Article, for a hospital provider that did not have a 2015
12 Medicare cost report, but paid an assessment in State Fiscal
13 Year 2020 on the basis of hypothetical data, the data that was
14 the basis for the 2020 assessment shall be used to calculate
15 the assessment under this paragraph.

16 (b) (Blank).

17 (b-5)(1) Subject to Sections 5A-3 and 5A-10, for the
18 portion of State fiscal year 2012, beginning June 10, 2012
19 through June 30, 2012, and for State fiscal years 2013 through
20 2018, or as provided in Section 5A-16, an annual assessment on
21 outpatient services is imposed on each hospital provider in an
22 amount equal to .008766 multiplied by the hospital's outpatient
23 gross revenue, provided, however, that the amount of .008766
24 shall be increased by a uniform percentage to generate an
25 amount equal to 25% of the State share of the payments
26 authorized under Section 5A-12.5, with such increase only

1 taking effect upon the date that a State share for such
2 payments is required under federal law. For the period
3 beginning June 10, 2012 through June 30, 2012, the annual
4 assessment on outpatient services shall be prorated by
5 multiplying the assessment amount by a fraction, the numerator
6 of which is 21 days and the denominator of which is 365 days.
7 For the period of April through June 2015, the amount of
8 .008766 used to calculate the assessment under this paragraph
9 shall, by emergency rule under subsection (s) of Section 5-45
10 of the Illinois Administrative Procedure Act, be increased by a
11 uniform percentage to generate \$6,750,000 in the aggregate for
12 that period from all hospitals subject to the annual assessment
13 under this paragraph.

14 (2) In addition to any other assessments imposed under this
15 Article, effective July 1, 2016 and semi-annually thereafter
16 through June 2018, in addition to any federally required State
17 share as authorized under paragraph (1), the amount of .008766
18 shall be increased by a uniform percentage to generate an
19 amount equal to 25% of the ACA Assessment Adjustment, as
20 defined in subsection (b-6) of this Section.

21 For the portion of State fiscal year 2012, beginning June
22 10, 2012 through June 30, 2012, and State fiscal years 2013
23 through 2018, or as provided in Section 5A-16, a hospital's
24 outpatient gross revenue shall be determined using the most
25 recent data available from each hospital's 2009 Medicare cost
26 report as contained in the Healthcare Cost Report Information

1 System file, for the quarter ending on June 30, 2011, without
2 regard to any subsequent adjustments or changes to such data.
3 If a hospital's 2009 Medicare cost report is not contained in
4 the Healthcare Cost Report Information System, then the
5 Department may obtain the hospital provider's outpatient gross
6 revenue from any source available, including, but not limited
7 to, records maintained by the hospital provider, which may be
8 inspected at all times during business hours of the day by the
9 Department or its duly authorized agents and employees.

10 (3) Subject to Sections 5A-3, 5A-10, and 5A-16, for State
11 fiscal years 2019 and 2020, an annual assessment on outpatient
12 services is imposed on each hospital provider in an amount
13 equal to .01358 multiplied by the hospital's outpatient gross
14 revenue. For State fiscal years 2019 and 2020, a hospital's
15 outpatient gross revenue shall be determined using the most
16 recent data available from each hospital's 2015 Medicare cost
17 report as contained in the Healthcare Cost Report Information
18 System file, for the quarter ending on March 31, 2017, without
19 regard to any subsequent adjustments or changes to such data.
20 If a hospital's 2015 Medicare cost report is not contained in
21 the Healthcare Cost Report Information System, then the
22 Department may obtain the hospital provider's outpatient gross
23 revenue from any source available, including, but not limited
24 to, records maintained by the hospital provider, which may be
25 inspected at all times during business hours of the day by the
26 Department or its duly authorized agents and employees.

1 Notwithstanding any other provision in this Article, for a
2 hospital provider that did not have a 2015 Medicare cost
3 report, but paid an assessment in State fiscal year 2018 on the
4 basis of hypothetical data, that assessment amount shall be
5 used for State fiscal years 2019 and 2020.

6 (4) Subject to Sections 5A-3 and 5A-10, for the period of
7 July 1, 2020 through December 31, 2020 and calendar years 2021
8 and 2022, an annual assessment on outpatient services is
9 imposed on each hospital provider in an amount equal to .01525
10 multiplied by the hospital's outpatient gross revenue,
11 provided however: (i) for the period of July 1, 2020 through
12 December 31, 2020, the assessment shall be equal to 50% of the
13 annual amount; and (ii) the amount of .01525 shall be
14 retroactively adjusted by a uniform percentage to generate an
15 amount equal to 50% of the Assessment Adjustment, as defined in
16 subsection (b-7). For the period of July 1, 2020 through
17 December 31, 2020 and calendar years 2021 and 2022, a
18 hospital's outpatient gross revenue shall be determined using
19 the most recent data available from each hospital's 2015
20 Medicare cost report as contained in the Healthcare Cost Report
21 Information System file, for the quarter ending on March 31,
22 2017, without regard to any subsequent adjustments or changes
23 to such data. If a hospital's 2015 Medicare cost report is not
24 contained in the Healthcare Cost Report Information System,
25 then the Illinois Department may obtain the hospital provider's
26 outpatient revenue data from any source available, including,

1 but not limited to, records maintained by the hospital
2 provider, which may be inspected at all times during business
3 hours of the day by the Illinois Department or its duly
4 authorized agents and employees. Should the change in the
5 assessment methodology above for fiscal years 2021 through
6 calendar year 2022 not be approved prior to July 1, 2020, the
7 assessment and payments under this Article in effect for fiscal
8 year 2020 shall remain in place until the new assessment is
9 approved. If the change in the assessment methodology above for
10 July 1, 2020 through December 31, 2022, is approved after June
11 30, 2020, it shall have a retroactive effective date of July 1,
12 2020, subject to federal approval and provided that the
13 payments authorized under Section 12A-7 have the same effective
14 date as the new assessment methodology. In giving retroactive
15 effect to the assessment approved after June 30, 2020, credit
16 toward the new assessment shall be given for any payments of
17 the previous assessment for periods after June 30, 2020.
18 Notwithstanding any other provision of this Article, for a
19 hospital provider that did not have a 2015 Medicare cost
20 report, but paid an assessment in State Fiscal Year 2020 on the
21 basis of hypothetical data, the data that was the basis for the
22 2020 assessment shall be used to calculate the assessment under
23 this paragraph.

24 (b-6) (1) As used in this Section, "ACA Assessment
25 Adjustment" means:

26 (A) For the period of July 1, 2016 through December 31,

1 2016, the product of .19125 multiplied by the sum of the
2 fee-for-service payments to hospitals as authorized under
3 Section 5A-12.5 and the adjustments authorized under
4 subsection (t) of Section 5A-12.2 to managed care
5 organizations for hospital services due and payable in the
6 month of April 2016 multiplied by 6.

7 (B) For the period of January 1, 2017 through June 30,
8 2017, the product of .19125 multiplied by the sum of the
9 fee-for-service payments to hospitals as authorized under
10 Section 5A-12.5 and the adjustments authorized under
11 subsection (t) of Section 5A-12.2 to managed care
12 organizations for hospital services due and payable in the
13 month of October 2016 multiplied by 6, except that the
14 amount calculated under this subparagraph (B) shall be
15 adjusted, either positively or negatively, to account for
16 the difference between the actual payments issued under
17 Section 5A-12.5 for the period beginning July 1, 2016
18 through December 31, 2016 and the estimated payments due
19 and payable in the month of April 2016 multiplied by 6 as
20 described in subparagraph (A).

21 (C) For the period of July 1, 2017 through December 31,
22 2017, the product of .19125 multiplied by the sum of the
23 fee-for-service payments to hospitals as authorized under
24 Section 5A-12.5 and the adjustments authorized under
25 subsection (t) of Section 5A-12.2 to managed care
26 organizations for hospital services due and payable in the

1 month of April 2017 multiplied by 6, except that the amount
2 calculated under this subparagraph (C) shall be adjusted,
3 either positively or negatively, to account for the
4 difference between the actual payments issued under
5 Section 5A-12.5 for the period beginning January 1, 2017
6 through June 30, 2017 and the estimated payments due and
7 payable in the month of October 2016 multiplied by 6 as
8 described in subparagraph (B).

9 (D) For the period of January 1, 2018 through June 30,
10 2018, the product of .19125 multiplied by the sum of the
11 fee-for-service payments to hospitals as authorized under
12 Section 5A-12.5 and the adjustments authorized under
13 subsection (t) of Section 5A-12.2 to managed care
14 organizations for hospital services due and payable in the
15 month of October 2017 multiplied by 6, except that:

16 (i) the amount calculated under this subparagraph
17 (D) shall be adjusted, either positively or
18 negatively, to account for the difference between the
19 actual payments issued under Section 5A-12.5 for the
20 period of July 1, 2017 through December 31, 2017 and
21 the estimated payments due and payable in the month of
22 April 2017 multiplied by 6 as described in subparagraph
23 (C); and

24 (ii) the amount calculated under this subparagraph
25 (D) shall be adjusted to include the product of .19125
26 multiplied by the sum of the fee-for-service payments,

1 if any, estimated to be paid to hospitals under
2 subsection (b) of Section 5A-12.5.

3 (2) The Department shall complete and apply a final
4 reconciliation of the ACA Assessment Adjustment prior to June
5 30, 2018 to account for:

6 (A) any differences between the actual payments issued
7 or scheduled to be issued prior to June 30, 2018 as
8 authorized in Section 5A-12.5 for the period of January 1,
9 2018 through June 30, 2018 and the estimated payments due
10 and payable in the month of October 2017 multiplied by 6 as
11 described in subparagraph (D); and

12 (B) any difference between the estimated
13 fee-for-service payments under subsection (b) of Section
14 5A-12.5 and the amount of such payments that are actually
15 scheduled to be paid.

16 The Department shall notify hospitals of any additional
17 amounts owed or reduction credits to be applied to the June
18 2018 ACA Assessment Adjustment. This is to be considered the
19 final reconciliation for the ACA Assessment Adjustment.

20 (3) Notwithstanding any other provision of this Section, if
21 for any reason the scheduled payments under subsection (b) of
22 Section 5A-12.5 are not issued in full by the final day of the
23 period authorized under subsection (b) of Section 5A-12.5,
24 funds collected from each hospital pursuant to subparagraph (D)
25 of paragraph (1) and pursuant to paragraph (2), attributable to
26 the scheduled payments authorized under subsection (b) of

1 Section 5A-12.5 that are not issued in full by the final day of
2 the period attributable to each payment authorized under
3 subsection (b) of Section 5A-12.5, shall be refunded.

4 (4) The increases authorized under paragraph (2) of
5 subsection (a) and paragraph (2) of subsection (b-5) shall be
6 limited to the federally required State share of the total
7 payments authorized under Section 5A-12.5 if the sum of such
8 payments yields an annualized amount equal to or less than
9 \$450,000,000, or if the adjustments authorized under
10 subsection (t) of Section 5A-12.2 are found not to be
11 actuarially sound; however, this limitation shall not apply to
12 the fee-for-service payments described in subsection (b) of
13 Section 5A-12.5.

14 (b-7) (1) As used in this Section, "Assessment Adjustment"
15 means:

16 (A) For the period of July 1, 2020 through December 31,
17 2020, the product of .3853 multiplied by the total of the
18 actual payments made under subsections (c) through (k) of
19 Section 5A-12.7 attributable to the period, less the total
20 of the assessment imposed under subsections (a) and (b-5)
21 of this Section for the period.

22 (B) For each calendar quarter beginning on and after
23 January 1, 2021, the product of .3853 multiplied by the
24 total of the actual payments made under subsections (c)
25 through (k) of Section 5A-12.7 attributable to the period,
26 less the total of the assessment imposed under subsections

1 (a) and (b-5) of this Section for the period.

2 (2) The Department shall calculate and notify each hospital
3 of the total Assessment Adjustment and any additional
4 assessment owed by the hospital or refund owed to the hospital
5 on either a semi-annual or annual basis. Such notice shall be
6 issued at least 30 days prior to any period in which the
7 assessment will be adjusted. Any additional assessment owed by
8 the hospital or refund owed to the hospital shall be uniformly
9 applied to the assessment owed by the hospital in monthly
10 installments for the subsequent semi-annual period or calendar
11 year. If no assessment is owed in the subsequent year, any
12 amount owed by the hospital or refund due to the hospital,
13 shall be paid in a lump sum.

14 (3) The Department shall publish all details of the
15 Assessment Adjustment calculation performed each year on its
16 website within 30 days of completing the calculation, and also
17 submit the details of the Assessment Adjustment calculation as
18 part of the Department's annual report to the General Assembly.

19 (c) (Blank).

20 (d) Notwithstanding any of the other provisions of this
21 Section, the Department is authorized to adopt rules to reduce
22 the rate of any annual assessment imposed under this Section,
23 as authorized by Section 5-46.2 of the Illinois Administrative
24 Procedure Act.

25 (e) Notwithstanding any other provision of this Section,
26 any plan providing for an assessment on a hospital provider as

1 a permissible tax under Title XIX of the federal Social
2 Security Act and Medicaid-eligible payments to hospital
3 providers from the revenues derived from that assessment shall
4 be reviewed by the Illinois Department of Healthcare and Family
5 Services, as the Single State Medicaid Agency required by
6 federal law, to determine whether those assessments and
7 hospital provider payments meet federal Medicaid standards. If
8 the Department determines that the elements of the plan may
9 meet federal Medicaid standards and a related State Medicaid
10 Plan Amendment is prepared in a manner and form suitable for
11 submission, that State Plan Amendment shall be submitted in a
12 timely manner for review by the Centers for Medicare and
13 Medicaid Services of the United States Department of Health and
14 Human Services and subject to approval by the Centers for
15 Medicare and Medicaid Services of the United States Department
16 of Health and Human Services. No such plan shall become
17 effective without approval by the Illinois General Assembly by
18 the enactment into law of related legislation. Notwithstanding
19 any other provision of this Section, the Department is
20 authorized to adopt rules to reduce the rate of any annual
21 assessment imposed under this Section. Any such rules may be
22 adopted by the Department under Section 5-50 of the Illinois
23 Administrative Procedure Act.

24 (Source: P.A. 100-581, eff. 3-12-18; 101-10, eff. 6-5-19;
25 101-650, eff. 7-7-20.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".